

## **Regulation 17053.36-0**

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*Note:* Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 17053.36, Revenue and Taxation Code.

## **Regulation 17053.36-1**

**The Joint Strike Fighter (JSF) Wage Credit** - (See Regulation 17053.36-0 for Table of Contents.)

(a) *In General.* The Joint Strike Fighter (JSF) Wage Credit is allowed to any qualified taxpayer for each taxable year beginning on or after January 1, 2001, and before January 1, 2006, in the following amounts:

(1) Fifty percent of qualified wages paid or incurred during any taxable year beginning on or after January 1, 2001, and before January 1, 2002.

(2) Forty percent of qualified wages paid or incurred during any taxable year beginning on or after January 1, 2002, and before January 1, 2003.

(3) Thirty percent of qualified wages paid or incurred during any taxable year beginning on or after January 1, 2003, and before January 1, 2004.

(4) Twenty percent of qualified wages paid or incurred during any taxable year beginning on or after January 1, 2004, and before January 1, 2005.

(5) Ten percent of qualified wages paid or incurred during any taxable year beginning on or after January 1, 2005, and before January 1, 2006.

The credit allowed by Revenue and Taxation Code Section 17053.36 and this regulation shall not exceed ten thousand dollars (\$10,000) per year, per qualified employee, subject to reduction as provided in Revenue and Taxation Code Section 17053.36(c) and this Regulation 17053.36-5 for employees that are qualified employees for only part of a taxable year.

(b) *Joint Strike Fighter Property Credit.* The Joint Strike Fighter Property Credit contained in Revenue and Taxation Code Section 17053.37 provides a credit for qualified property and capitalized direct labor costs to construct, modify or install qualified property used to manufacture products for ultimate use in a Joint Strike Fighter. In contrast, the Joint Strike Fighter Wage Credit allowed by Revenue and Taxation Code Section 17053.36 and this regulation provides a credit for certain capitalized direct labor costs to manufacture inventory property physically installed in or attached to a Joint Strike Fighter.

(c) *Cross References.* Regulation 17053.36-2 contains definitions applicable to Regulations 17053.36-1 through 17053.36-9, inclusive, Regulation 17053.36-3 contains rules relating to qualified taxpayers, Regulation 17053.36-4 contains rules relating to qualified wages, Regulation 17053.36-5 contains rules relating to qualified employees, Regulation 17053.36-6 contains rules relating to contract bidding, Regulation 17053.36-7 contains rules relating to carryforwards, Regulation 17053.36-8 contains general recordkeeping requirements, and Regulation 17053.36-9 contains other miscellaneous provisions. For rules relating to the JSF Wage Credit allowed to taxpayers under the Personal Income Tax Law, see Revenue and Taxation Code Section 17053.36 and the regulations thereunder.

(d) *General References.* For purposes of Regulations 17053.36-1 through 17053.36-9, inclusive, the following general references shall apply:

(1) All citations to the Revenue and Taxation Code are to the California Revenue and Taxation Code.

(2) All citations to the Internal Revenue Code are to the Internal Revenue Code of 1986, as amended.

(3) The credits provided for in Revenue and Taxation Code Sections 17053.36 and 23636 shall be collectively referred to as the "Joint Strike Fighter Wage Credit" or the "JSF Wage Credit."

(4) Unless otherwise provided, any reference to wages in the examples in this regulation shall mean wages that are direct labor costs, as used in Section 263A of the Internal Revenue Code and defined in the regulations thereunder, and shall assume that the wages are qualified wages paid to qualified employees to manufacture property in this state for ultimate use in a Joint Strike Fighter. In addition, unless otherwise provided, all examples in this regulation shall assume that the qualified taxpayer's bid to manufacture property for ultimate use in a Joint Strike Fighter reflected a reduction in the amount of the Joint Strike Fighter Wage Credit allowable as provided in Revenue and Taxation Code Section 17053.36(e) and Regulation 17053.36-6.

*Note:* Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 17053.36, Revenue and Taxation Code.

## **Regulation 17053.36-2**

**Definitions** – (See Regulation 17053.36-0 for Table of Contents.)

For purposes of Regulations 17053.36-1 through 17053.36-9, inclusive, the following definitions shall apply:

(a) *Joint Strike Fighter*. The term "Joint Strike Fighter" shall mean the next-generation air combat strike aircraft developed and produced under the Joint Strike Fighter program of the United States government.

(b) *Initial Contract or Initial Subcontract*. The term "initial contract" shall mean the contract awarded by the United States government to a prime contractor for any phase, including the Engineering and Manufacturing Development Phase, of the Joint Strike Fighter Program to produce the Joint Strike Fighter. The term "initial subcontract" shall mean a contract between a prime contractor and any other contractor, or between two contractors where those contractors have been listed as subcontractors on the bid for the initial contract or the prime contractor has consented to the contract in writing, to produce a product that is physically attached to or installed in a Joint Strike Fighter under the initial contract.

(c) *Joint Strike Fighter Program.* The term "Joint Strike Fighter program" shall mean the multiservice, multinational project conducted by the United States government to develop and produce the next generation of air combat strike aircraft.

(d) *Manufactured.* The term "manufactured" shall mean the process of converting or conditioning stock in trade or other property properly includible in the inventory of the taxpayer for ultimate use in a Joint Strike Fighter by changing the form, composition, quality, or character of the property, and includes any improvements to property that result in a greater service life or greater functionality than that of the original property. Property shall be treated as having a greater service life if such property can be used for a longer period than such property could have been used prior to the conversion or conditioning of such property. Property shall be treated as having greater functionality if it has been improved in such a manner that it can be used to perform new or different functions.

(e) *Product for Ultimate Use in a Joint Strike Fighter.* The term "product for ultimate use in a Joint Strike Fighter" shall mean a product that is properly treated as inventory in the hands of the taxpayer and is physically installed in or attached to a Joint Strike Fighter. The term "product for ultimate use in a Joint Strike Fighter" shall not include any product that does not form a part of the Joint Strike Fighter. For this purpose, the term "inventory" includes any property which is required to be included in the qualified taxpayer's inventory costs under Internal Revenue Code Section 263A or that is described in Internal Revenue Code Section 1221(1).

*Note:* Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 17053.36, Revenue and Taxation Code.

### **Regulation 17053.36-3**

**Qualified Taxpayer** – (See Regulation 17053.36-0 for Table of Contents.)

(a) *Regulation 17053.37-3 Shall Apply.* For purposes of Regulations 17053.36-1 through 17053.36-9, inclusive, the provisions of Regulation 17053.37-3, as in effect on the date these regulations become effective, shall apply and are incorporated herein by reference. The term "qualified taxpayer" in this regulation shall have the same meaning as the term qualified taxpayer in Regulation 17053.37-3.

*Note:* Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 17053.36, Revenue and Taxation Code.

### **Regulation 17053.36-4**

**Qualified Wages** – (See Regulation 17053.36-0 for Table of Contents.)

(a) *In General.* For purposes of Regulations 17053.36-1 through 17053.36-9, inclusive, the term "qualified wages" shall mean that portion of wages paid or incurred by the qualified taxpayer to qualified employees that are direct labor costs, as used in Section 263A of the Internal Revenue Code and defined in the regulations thereunder, included in inventory costs for property manufactured in this state by the qualified taxpayer for ultimate use in a Joint Strike Fighter. For this purpose, the term employee encompasses both full-time and part-time employees but shall not include contract employees or independent contractors referenced in Treasury Regulation Section 263A-1.

(1) Direct labor costs shall include all elements of compensation, such as basic compensation, overtime pay, vacation pay, holiday pay, sick leave pay (other than payments pursuant to a wage continuation plan under Internal Revenue Code Section 105(d) as it existed prior to its repeal in 1983), shift differential, payroll taxes, and payments to a supplemental unemployment benefit plan, but shall not include any indirect labor costs.

(2) Indirect labor costs shall include that portion of qualified wages that are not direct labor costs. Indirect labor costs include, but are not limited to, training costs, officers' compensation, pension and other related costs, and employee benefit expenses (including payments pursuant to a wage continuation plan under Internal Revenue Code Section 105(d) as it existed prior to its repeal in 1983).

(3) In determining whether direct costs of labor are properly included in inventory costs for property manufactured in this state by the qualified taxpayer for ultimate use in a Joint Strike Fighter, the qualified taxpayer shall be required to use the same method of allocation for California income or franchise tax purposes that the taxpayer used for federal income tax purposes under the uniform capitalization allocation rules specified in Treasury Regulation Section 1.263A-1 (as in effect on the date Regulation 17053.36-4 is effective).

*EXAMPLE 1:* A, a qualified taxpayer, manufactures aircraft navigational instruments in its plant in Lancaster. A's manufacturing facility employs 20 people that assemble the instrument components. Assume that all of A's employees' activities are allocable to property manufactured in this state by the qualified taxpayer for ultimate use in a Joint Strike Fighter. A pays its employees \$20 per hour, plus the following amounts as an employer: Social Security \$1.54; Unemployment Insurance \$.18; Workers' Compensation Insurance \$.60; Health and Life Insurance \$2.08; and Retirement Benefits \$1.68 for total compensation of \$26.08 per hour. Pursuant to Treasury Regulation Section 263A-1, the Workers' Compensation Insurance, Health and Life Insurance and Retirement Benefits amounts are classified as indirect labor costs and are not qualified wages. Accordingly, \$21.72 of the total wages of \$26.08 paid by A constitutes direct labor costs and qualified wages for purposes of Revenue and Taxation Code Section 17053.36 and this regulation.

*EXAMPLE 2:* Assume the same facts as in EXAMPLE 1, except A purchases pressurized sealing equipment for the navigational instruments and installs the equipment in B's manufacturing facility located in Burbank. A then enters into a contract with B to pressure seal all of A's navigational equipment following assembly by A. A pays B a specified hourly rate for sealing the equipment. B is properly classified as an independent contractor. Under these facts,

even though the payments are made to operate equipment owned by A, the payments to B are not qualified wages as B is not an employee of A and the payments are not qualified wages eligible for the credit. However, if B is a qualified taxpayer and B meets all of the other requirements of Revenue and Taxation Code Section 17053.36 and this regulation, B would be able to claim the JSF Wage Credit for wages paid to its own employees, if any, in connection with the instrument sealing activity.

(b) *Amount of Qualified Wages.* The amount of qualified wages allowed as a credit under Section 17053.36 and this regulation shall be as follows:

(1) Fifty percent of qualified wages paid or incurred during any taxable year beginning on or after January 1, 2001, and before January 1, 2002.

(2) Forty percent of qualified wages paid or incurred during any taxable year beginning on or after January 1, 2002, and before January 1, 2003.

(3) Thirty percent of qualified wages paid or incurred during any taxable year beginning on or after January 1, 2003, and before January 1, 2004.

(4) Twenty percent of qualified wages paid or incurred during any taxable year beginning on or after January 1, 2004, and before January 1, 2005.

(5) Ten percent of qualified wages paid or incurred during any taxable year beginning on or after January 1, 2005, and before January 1, 2006.

*Note:* Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 17053.36, Revenue and Taxation Code.

### **Regulation 17053.36-5**

**Qualified Employee** - (See Regulation 17053.36-0 for Table of Contents.)

(a) *In General.* The Joint Strike Fighter Wage Credit is allowed to any qualified taxpayer for certain qualified wages paid to qualified employees. For purposes of Regulations 17053.36-1 through 17053.36-9, inclusive, the term "employee" means any employee, as described in Sections 13004, 13004.1 and 13004.5 of the Unemployment Insurance Code, whose services for the qualified taxpayer are performed in this state and are at least 90 percent directly related to the qualified taxpayer's contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter. In order to properly compute the limitation contained in subsection (b), the determination of whether an employee is a qualified employee must be made on a monthly basis.

(b) *Limitation.* The credit allowed by Revenue and Taxation Code Section 17053.36 and this regulation shall not exceed ten thousand dollars (\$10,000) per year, per qualified employee. For employees that are qualified employees for part of a taxable year, the credit shall not exceed ten thousand dollars (\$10,000) multiplied by a fraction, the numerator of which is the number of months of the taxable year that the employee is a qualified employee and the denominator of which is 12.

(1) *Computation.* There are two requirements for a qualified employee: (1) services must be performed in California and (2) 90% of those services must be directly related to the qualified taxpayer's initial contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter. Moreover, the dollar limitation contained in Revenue and Taxation Code Section 17053.36(c) and this regulation is based upon *the number of months* during the taxable year that the employee is a qualified taxpayer. Accordingly, the determination of a qualified employee must be made on a monthly basis during the taxable year. For purposes of this regulation, a qualified taxpayer must first determine the amount of wages paid for the employee's services performed while physically located within and without California. Then, with respect to the California wages, at least 90 percent of the services performed for which California wages are paid each month must be directly related to the qualified taxpayer's initial contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter. If at least 90 percent of the California services are directly related, then the employee is a qualified employee for that month. If less than 90 percent of the California services are directly related or if all of the employee's services are performed outside of California, then the employee is not a qualified employee for that month.

*EXAMPLE 1:* A, a qualified taxpayer, manufactures avionics systems in San Diego and Houston, Texas. B, one of A's employees, works from January 1, 2002, in Houston before being transferred to San Diego on July 1, 2002, to manufacture avionics systems for the Joint Strike Fighter. B works in San Diego exclusively on the avionics systems through the remainder of the 2002 taxable year. Under these facts, B is not a qualified employee for the months of January through June, inclusive, since all of B's services were performed outside of California during those months. Only wages paid for B's services performed in California are potentially eligible for the JSF Wage Credit. Assume B works a total of 160 hours per month. Under these facts, B's 160 hours of service related to the qualified taxpayer's contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter is divided by 160 total hours of California service each month. As a result, 100% of B's California services are related to the qualified taxpayer's contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter and B is a qualified employee for six months of the 2002 taxable year. To compute the \$10,000 maximum dollar credit limitation, \$10,000 would be multiplied by 6/12 (the numerator being the number of months B is a qualified employee and the denominator being 12) and A would be allowed a maximum JSF Wage Credit of \$5,000 for B's California services for the 2002 taxable year.

*EXAMPLE 2:* Assume the same facts as in EXAMPLE 1, except that B is transferred to San Diego on December 8, 2002, and begins working on the avionics systems. Under these facts, B's California wages would be separated from the Texas wages. Assume B works a total of 160 hours per month and B worked 144 of these hours in California for the month of December 2002. B's 144 total hours of California service (a portion of B's total December hours) related to the qualified taxpayer's contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter is divided by 144 (total hours of California services). As a result, 100% of B's California services are related to the qualified taxpayer's contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter and B is a qualified employee for one month of the year. To compute the \$10,000 maximum dollar credit limitation, \$10,000 would be multiplied by 1/12 (the numerator being the number of months B is a qualified employee and the



denominator being 12) and A would be allowed a maximum JSF Wage Credit of \$833 for B's California services.

**EXAMPLE 3:** Assume the same facts as in EXAMPLE 1, except B instead is promoted to a management position on December 1, 2002, in A's general administrative division in California. Services in general administrative functions are not services directly related to the qualified taxpayer's contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter. Assume B works a total of 160 hours per month. Under these facts, B's 160 hours of service related to the qualified taxpayer's contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter are divided by 160 total hours of California service for each month from July through November. As a result, 100% of B's California services for the months of July through November are related to the qualified taxpayer's contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter and B is a qualified employee for five months of the year. B's December hours of service related to the qualified taxpayer's contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter (0 hours) is divided by 160 total hours of California service. As a result, none of B's December California service is directly related to the qualified taxpayer's contract or subcontract to manufacture property for ultimate use in the Joint Strike Fighter and B is a qualified employee for only five months of the 2002 taxable year (but not for December). To compute the \$10,000 wage credit limitation, \$10,000 would be multiplied by 5/12 (the numerator being the number of months B is a qualified employee and the denominator being 12) and A would be allowed a maximum JSF Wage Credit of \$4,167 for B's California services for the months of June through November.

(c) *Services Directly Related.* For purposes of computing the 90% directly related service requirement under this regulation, services are directly related if the wages for those services are properly characterized as direct labor costs, as that term is used in Section 263A of the Internal Revenue Code and defined in the regulations thereunder, as provided in Regulation 17053.36-4, and are included in inventory costs for property manufactured in this state by the qualified taxpayer for ultimate use in a Joint Strike Fighter.

*Note:* Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 17053.36, Revenue and Taxation Code.

### **Regulation 17053.36-6**

**JSF Contract Bidding** - (See Regulation 17053.36-0 for Table of Contents.)

(a) *In General.* The JSF Wage Credit shall not be allowed unless the credit is reflected within the bid that forms the basis for the qualified taxpayer's contract or subcontract to manufacture property for ultimate use in a Joint Strike Fighter.

(b) *Bid.* For purposes of this regulation, the term "bid" shall mean a written bid or offer to perform a contract to produce a product that is physically attached to or installed in a Joint Strike Fighter, submitted to the United States government or the prime contractor in response to a

request for bids to construct all or a portion of the Joint Strike Fighter. The bid shall be submitted in a competitive process where the contract will be awarded to the lowest possible bidder or as otherwise indicated in the conditions under which the bids will be received and the contract awarded.

(c) *JSF Wage Credit Reflected Within the Bid.* For purposes of this regulation, the term "reflected within the bid" shall mean:

(1) the bid that forms the basis of the contract or subcontract is reduced by the amount of the JSF Wage Credit allowable, and

(2) the face of the bid, or an attachment to the bid, contains a calculation showing the original bid price, the amount of the JSF Wage Credit allowable and the resulting reduced bid amount.

The JSF Wage Credit allowable shall be a lump sum number reflected on the contract or subcontract and the aggregate credit allowable over the term of the contract or subcontract is not required to be calculated on the basis of the year in which the credit amount is expected to be claimed.

*EXAMPLE 1:* X, a qualified taxpayer, submits a bid to the prime contractor in the amount of \$70 to manufacture retractable landing gear for the Joint Strike Fighter. The bid price without the JSF Wage Credit would have been \$100. The bid form contains an attachment that states the JSF Wage Credit allowable for the subcontract is \$30 (\$100 contract price less JSF Wage Credit in the amount of \$30 for a reduced contract price of \$70). X is the successful bidder on the retractable landing gear and thereafter is awarded the contract to produce the part for the Joint Strike Fighter. X and the prime contractor execute a contract in the amount of \$70. Under these facts, the \$30 JSF Wage Credit amount is reflected within the bid that forms the basis for X's subcontract to manufacture property for ultimate use in a Joint Strike Fighter and X may claim the \$30 JSF Wage Credit if all of the other requirements of Section 17053.36 of the Revenue and Taxation Code and this regulation are met.

*EXAMPLE 2:* Assume the same facts as in EXAMPLE 1, except that the bid form reflects a price of \$100. In this circumstance, X is not eligible to claim the credit because X has not reduced the amount of the bid by the amount of the JSF Wage Credit allowable.

*EXAMPLE 3:* Assume the same facts as in EXAMPLE 1, except that the bid form reflects a price of \$70, but the bid form does not contain an attachment showing the amount of the JSF Wage Credit allowable. In this circumstance, X is not eligible to claim the credit because even though the bid amount has been reduced by the amount of the credit allowable, the amount of the credit allowable is not included on the face of the bid or in an attachment to the bid.

*EXAMPLE 4:* Assume the same facts as in EXAMPLE 1, except that the scope of the project changes after the bid is submitted and X and the prime contractor execute a contract in the amount of \$125, reflecting an increase of \$55 dollars in the original bid amount. In this circumstance, the cost for the expanded scope of the contract was added to the original bid

amount. As a result, X would only be allowed to claim a \$30 JSF Wage Credit since this amount was reflected within the original bid.

*EXAMPLE 5:* X, a qualified taxpayer, is the prime contractor awarded the initial contract from the United States government for the Engineering and Manufacturing Development Phase of the Joint Strike Fighter Program. X does not include any reduction for the JSF Wage Credit in its bid for the Engineering and Manufacturing Development Phase accepted by the United States government. Under these facts, X is not able to claim the JSF Wage Credit since the credit amount was not reflected within the bid that formed the basis for the initial contract for the Engineering and Manufacturing Development Phase.

*EXAMPLE 6:* Assume the same facts as in EXAMPLE 5, except that Y responds to a request from X and submits a bid to subcontract a portion of the scope of the work covered in the Engineering and Manufacturing Development Phase of the Joint Strike Fighter Program. The bid form includes an attachment that shows the JSF Wage Credit allowable for the subcontract is \$20 (\$100 contract price less JSF Wage Credit in the amount of \$20 for a reduced contract price of \$80). Y is the successful bidder on that portion of the scope of the work and thereafter is awarded the contract to produce the part for the Joint Strike Fighter. X and Y execute a contract in the amount of \$80. Under these facts, the \$20 JSF Wage Credit amount is reflected within the bid that forms the basis for Y's subcontract to manufacture property for ultimate use in a Joint Strike Fighter. Even though X, the prime contractor, did not reduce its bid for the prime contract and is not eligible to claim the JSF Wage Credit, Y's bid met the bidding requirements for claiming the credit and Y may claim the \$20 JSF Wage Credit if all of the other requirements of Section 17053.36 of the Revenue and Taxation Code and this Regulation are met.

(d) *JSF Wage Credit Allowable.* For purposes of this regulation, the term "credit allowable" shall mean at the time the bid for the initial contract or subcontract is submitted, the amount of the credit the qualified taxpayer expects to claim as a result of qualified wages paid in connection with the contract or subcontract. The amount of the JSF Wage Credit allowed to any qualified taxpayer shall be computed pursuant to Revenue and Taxation Code Section 17053.36 and these regulations, but shall not exceed the lesser of the credit amount reflected within the bid of the qualified taxpayer or the credit allowed for actual amounts paid or incurred by the qualified taxpayer.

*EXAMPLE:* Y, a qualified taxpayer, submits a bid to the prime contractor to manufacture the cockpit canopy for the Joint Strike Fighter. The bid form contains an attachment that shows the JSF Wage Credit allowable of \$30 (\$100 contract price less JSF Wage Credit in the amount of \$30 for a reduced contract price of \$70). X is the successful bidder on the cockpit canopy and thereafter is awarded the contract to produce the part for the Joint Strike Fighter. X and the prime contractor execute a contract in the amount of \$70. Thereafter, Y's wage costs to produce the cockpit canopy increase by 20% and Y determines that its increase in wages paid would result in a JSF Wage Credit in the amount of \$36. In this circumstance, even though Y's wage costs have increased, Y is only able to claim a JSF Wage credit in the amount of \$30 since that is the amount of the JSF Wage Credit allowable that was reflected within Y's bid.

(e) *Pass-Through Entities.* For purposes of this regulation:

(1) The amount of the JSF Wage Credit allowable reflected on a bid submitted by a partnership or an S corporation shall be the amount of the JSF Wage Credit expected to be passed through the partnership to the partners or the S corporation to the shareholders in accordance with the applicable provisions of Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001) of the Revenue and Taxation Code.

*EXAMPLE:* Z, a qualified taxpayer, submits a bid to the prime contractor to manufacture a portion of the hydraulic system for the Joint Strike Fighter. Z calculates the total allowable JSF Wage Credit to be \$150. Z has a valid S corporation election in effect for California tax purposes. Under Revenue and Taxation Code Section 23803(a)(1)(A), Z's JSF Wage Credit is limited to \$50 (one-third of the amount of the credit otherwise allowable). However, the amount of the JSF Wage Credit that is expected to be passed through to Z's shareholders is \$150 and Z must reflect the \$150 credit amount on the bid submitted to the prime contractor as provided in this regulation.

(f) *Copies Provided to Franchise Tax Board.* The qualified taxpayer shall provide, upon request of the Franchise Tax Board, a copy of any bid that forms the basis for a contract or subcontract to manufacture a product for ultimate use in a Joint Strike Fighter.

*Note:* Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 17053.36, Revenue and Taxation Code.

### **Regulation 17053.36-7**

**JSF Wage Credit Carryforwards** - (See Regulation 17053.36-0 for Table of Contents.)

(a) *In General.* In any case where the JSF Wage Credit exceeds the "tax," the excess may be carried forward to reduce the "tax" for the eight taxable years succeeding the taxable year for which the JSF Wage Credit is allowed, if necessary, until the credit is exhausted.

(b) *Carryforwards for Pass-Through Entities.* In the case of any JSF Wage Credit allowed to a pass-through entity, the determination of the applicable carryover period for any JSF Wage Credit required to be carried forward shall be made at the pass-through entity level.

(c) *Carryforwards Permitted After Sunset.* For taxable years commencing on or after January 1, 2006, any unused JSF Wage Credit may be carried forward, as provided above, until the unused JSF Wage Credit is exhausted.

*Note:* Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 17053.36, Revenue and Taxation Code.

### **Regulation 17053.36-8**

**Recordkeeping Requirements** - (See Regulation 17053.36-0 for Table of Contents.)

(a) *In General.* For purposes of Regulations 17053.36-1 through 17053.36-9, inclusive, a qualified taxpayer shall be required to maintain books and records that are adequate to substantiate its entitlement to any claimed JSF Wage Credit. These books and records should be retained for as long as the statute of limitations on assessment for the taxable year for which the JSF Wage Credit was allowed remains open, and, in the case of any JSF Wage Credit that is being carried forward, for the additional number of years that the actual carryforward of such JSF Wage Credit occurs.

(b) *Books and Records.* The books and records maintained by the qualified taxpayer should be sufficient to clearly establish all necessary facts that affect the allowance and amount of the JSF Wage Credit. For this purpose, "adequate" recordkeeping depends upon the sufficiency of the information contained in the documentation. In many cases, the books and records normally maintained for California income or franchise tax purposes and wage reporting purposes will be adequate substantiation for the JSF Wage Credit.

*Note:* Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 17053.36, Revenue and Taxation Code.

### **Regulation 17053.36-9**

**Miscellaneous Provisions** - (See Regulation 17053.36-0 for Table of Contents.)

(a) *Effective Dates of the JSF Wage Credit.* The JSF Wage Credit shall cease to be effective on December 1, 2006; however, any unused credit may be carried forward, as provided in Section 17053.36(g) of the Revenue and Taxation Code and this regulation.

(b) *Enterprise Zone Hiring Credit.* Under Revenue and Taxation Code Sections 17053.36 and 17053.75, a qualified taxpayer that also operates in an Enterprise Zone may claim both the JSF Wage Credit and the Enterprise Zone hiring credit for wages paid to an employee to the extent that all of the requirements of each of those sections are satisfied.

*Note:* Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 17053.36, Revenue and Taxation Code.